

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 494 OF 2023

DIST. : JALNA

Savita w/o Nagesh Shalgar
Savita d/o Shivaji Katare,
Age : 50 years, Occu. Service
(as Executive Engineer, MRRDA, Jalna),
R/o : C/o Shradha Shivaji Taur,
Vithala Building, Samarthnagar,
Civil Hospital Road, Jalna.

.. **APPLICANT.**

V E R S U S

- 1) The State of Maharashtra
Through its Secretary,
Rural Development Department,
M.S. Mantralaya, Bandhkam Bhavan,
5th Floor, 25 Marzban Road, Fort,
Mumbai – 32.
- 2) The State of Maharashtra,
Through its Addl. Chief Secretary,
Public Works Department,
M.S., Mantralaya, Madam Cama Road,
Hutatma Rajguru Chowk,
Mumbai-32.
- 3) The Chief Engineer, (PMGSY),
Empowered Officer (MMRDA)
Maharashtra Rural Roads Development
Association, Government of Maharashtra,
New Administrative Bldg, 3rd Floor,
Opposite Council Hall, Camp, Pune-41001.
- 4) The Superintending Engineer,
PMGSY, MMRDA,
Aurangabad Region,
Aurangabad.

.. **RESPONDENTS.**

APPEARANCE :- Ms. Preeti Wankhade, learned Advocate for the applicant.
: Shri I.S. Thorat, learned Presenting Officer for the State authorities.

CORAM : **Hon'ble Shri Justice P.R. Bora, Vice Chairman**
RESERVED ON : **03.08.2023**
PRONOUNCED ON : **12.09.2023**

ORDER

1. Heard Ms. Preeti Wankhade, learned counsel for the applicant and Shri I.S. Thorat, learned Presenting Officer for the State authorities.

2. The applicant has preferred the present Original Application seeking quashment of the order dated 15.06.2023 issued by respondent No. 1, whereby the applicant has been relieved from the post of Executive Engineer, Pradhan Mantri Gram Sadak Yojana (for short, 'PMGSY'), Jalna. The applicant entered into the Government services as Assistant Engineer, Grade-I upon her due selection through the Maharashtra Public Service Commission on 01.04.2000. On 01.08.2019, the applicant was promoted as Executive Engineer and was posted at Hingoli.

3. On 04.08.2021, the applicant was posted on deputation to Maharashtra Rural Road Development Association (in short, MRRDA) and on 05.08.2021 she was assigned the work of PMGSY. The road work of Hastpokhari-Karjat, Tq. Ambad under PMGSY was within the jurisdiction of the applicant and she was supervising the said work. One video was circulated showing irregularities and poor quality of construction of the said Hastpokhari-Karjat road being constructed under PMGSY. Ministry of Rural Development of Government of India took serious note of the said video. A team of experts was therefore deputed by the said Ministry to enquire into the matter and said team observed several deficiencies / violations of the guidelines in respect of the construction of the aforesaid Hastpokhari-Karjat road. The Secretary, Rural Development Ministry of Government of India, therefore, wrote a letter dated 15.06.2023 to the Chief Secretary of Government of Maharashtra requiring him to take actions suggested by him in the said letter. One of the suggestions was that the State should consider transferring the concerned Executive Engineer from PMGSY PIU work forthwith. Pursuant to the aforesaid DO letter, on the same day i.e. on 15.06.2023 the Government issued an order, thereby relieving the applicant from the post of Executive Engineer,

PMGSY, Jalna. The applicant has challenged the said order in the present Original Application.

4. Learned counsel for the applicant assailed the impugned order on various grounds. Learned counsel alleged that the impugned order is illegal, arbitrary and high-handed action of the respondents. Learned counsel further submitted that the impugned order, which has resulted in applicant's mid-tenure transfer, is violative of the statutory and mandatory provisions contained in the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short the Transfer Act, 2005). Learned counsel further submitted that without giving any opportunity of hearing to the applicant and without even issuing a show cause notice to her blindly relying on the video gone viral on social media; the respondents have taken the decision with undue haste. Learned counsel further alleged that the applicant has been made a scapegoat and the action has been initiated only against her as if the applicant alone is responsible for the alleged deficiencies. Learned counsel submitted that the impugned order relieving the applicant is stigmatic and punitive in nature, which could not have been passed without giving an

opportunity of hearing to the applicant. Learned counsel, in the circumstances, prayed for setting aside the impugned order.

5. Respondent Nos. 1, 3 and 4 have jointly filed their affidavit in reply. The respondents have denied the allegations made by the applicant. It is the contention of the respondents that the applicant who was given responsibility to check the quality and to supervise the work of the road construction, has failed in performing her duties and that is the reason that she has been relieved from the post of Executive Engineer, PMGSY. It is further contended that video clip was viral on social media, wherein the irregularities and poor quality of construction of road under PMGSY was highlighted, which was being supervised by the present applicant. The said video clip was watched by officers in the department of Rural Development, New Delhi. The Secretary, Department of Rural Development, New Delhi, therefore, wrote DO letter in that regard in the name of Chief Secretary, Government of Maharashtra. It is further contended that in the aforesaid letter, certain immediate actions were directed, which include transfer of the applicant from her existing post and in pursuance of the said direction, the applicant was relieved from her existing post.

6. It is further contended by respondent Nos. 1, 3 & 4 that the action has been taken on the basis of inspection carried out by the Team of the Rural Development Department, New Delhi. It is further contended that the applicant has failed in carrying out her responsibility which has resulted in poor construction quality of the subject road. It is further contended that report was submitted by NRID by sending the Team of expert to visit the work and on the basis of the report submitted in that regard, the action of relieving the applicant from the existing post was directed. It is further contended that on 16.06.2023 the office of State Quality Coordinator, PMGSY, MMRDA, Pune formed the committee consisting the officers of Grade-I and the said committee was directed to investigate in detail and carry out the necessary rectifications in the work of package number MH-481 of the road from SH-25 of Hastpokhari-Karjat road, Tq. Ambad, Dist. Jalna. It is further contended that it has also been found that from the stage of DPR (Detail Project Report) preparation to till execution of work, no communication was made by the applicant in regard to the construction of said work. According to the respondents, the execution of the concerned project was found to be done by the applicant in casual and superficial manner and that is the reason that she has been relived from her existing post.

According to the respondents the action so taken against the applicant is well within the powers of the respondent authorities. On all above grounds the respondents have prayed for rejecting the Original Application.

7. Learned Presenting Officer reiterated the averments taken in the affidavit in reply in his arguments. He has further submitted that after having noticed that the applicant has failed in properly supervising the work under her control which has resulted in the poor quality of construction of road the direction was issued to relieve the applicant. Learned P.O. submitted that concerned work was inspected by the committee of experts and the said committee had reported about the poor quality of construction of the said road. Learned P.O. further submitted that one video had also become viral wherein the poor quality of the construction was visible. Learned P.O. submitted that serious note was taken of the information so revealed from the said video clip and the necessary instructions were given by the Rural Development Department of the Central Government. Learned P.O. further submitted that the State Government was bound to execute the orders received from the Central Government. Learned P.O. submitted that in relieving the applicant from the existing post, no illegality has been

committed by the respondents and the decision to relieve the applicant from the said post was taken in the larger public interest.

8. I have duly considered the submissions made on behalf of the applicant, as well as, the respondents. I have gone through the documents placed on record. It is not in dispute that the applicant was working as Executive Engineer in PMGSY on deputation. PMGSY is a scheme launched by the Government of India for connectivity of rural habitations of +500 habitations. The project proposals of PMGSY are cleared by the Ministry of Rural Development, Government of India. Though the project in the State is being implemented by the MRRDA, the funding comes from the Ministry of Rural Development, Government of India. Government Resolution dated 29.6.2021 issued by the State Government says that the projects under PMGSY are to be implemented strictly as per Pradhan Mantri Gram Sadak Yojana guidelines, Operations Manual and Publications issued from time to time by the Ministry of Rural Development, Government of India. Directions were also given to comply all the conditions stipulated in Government of India, Ministry of Rural Development letter dated 31.3.2021.

9. It appears that treating the impugned order as an order of transfer in mid-term and mid-tenure, the applicant has raised allegations. It, however, appears to me that in the facts and circumstances of the present case, norms which are applied to decide the sustainability of the 'order of transfer' may not be applicable in the present case. Respondents have come out with precise case that after having noticed failure on part of the applicant in supervising the work under her control, which has resulted in poor quality of the construction of road being constructed under PMGSY that decision has been taken to relieve the applicant from her said responsibility. The PMGSY is monitored by the Ministry of Rural Development of the Government of India. The letter dated 15.6.2023 in the form of DO written to the Chief Secretary of the Government of Maharashtra by the Secretary of the Ministry of Rural Development, Central Government, reveals that Team of experts which had inspected the work of Hastpokhari-Karjat road being carried out under the PMGSY, reported that the road construction was of the poor quality and not confirming to the quality standard laid down under the PMGSY. The contents of the said letter also reveal that video clip which was widely circulated showing irregularities and poor quality work of construction of Hastpokhari-Karjat road under PMGSY was

noticed by the Central Government authorities in the Ministry of Rural Development and hence certain actions were directed to be taken by the State. In the said letter the learned Secretary has contended that there was clear lack of supervision by the field officials.

10. In the aforesaid circumstances, the steps which were taken by the State as suggested in the aforesaid letter include the impugned order, whereby the applicant was relieved from the responsibility of the post of Executive Engineer, PMGSY, Jalna. According to the applicant, the alleged action could not have been taken by the respondents without giving her an opportunity of hearing. The applicant has also exerted to show that there was no lack of supervision by her and all the steps which were required to be taken were being taken by her. It is the contention of the applicant that if some new method is adopted and practiced in construction of the road and if any deficiency or discrepancy arises, the officers concerned cannot be held liable for the same. The reliance has been placed by the applicant on Circular dated 06.01.2018. It has also been argued that the impugned order is stigmatic and in the form of punishment.

11. The submissions as are raised on behalf of the applicant are difficult to be accepted. As has been rightly argued by the learned P.O., the first task was to ensure that the construction of road being built under PMGSY is being properly supervised and monitored. According to the respondents, the applicant was noticed to be failing short in the said supervision and the committee of experts has noticed several discrepancies in the construction quality of the road. The things, which were noticed by the said committee and which were shown in the video clip which has become viral, have resulted in forming an opinion by the respondents that the applicant had failed in supervising the work under the control of her office. After having noticed the said fact if the decision is taken to relieve the applicant from the existing post no error can be noticed on the part of the respondents. The respondents do possess such power and the same has been exercised by the respondents taking into account the larger public interest. It is the prerogative of the Government. If the Government finds it necessary for efficiency of public administration to relieve the applicant from her existing post it cannot be said to be mala-fide exercise of power. Applicant cannot cling to the said post under the pretext of violation of her right. The flexibility has to be left to the executives to take decisions in such matters.

Considering the facts and circumstances involved in the present case the contention of the applicant that inquiry was required to be conducted and only after obtaining the result of the enquiry and finding the guilt of the applicant, the impugned action should have been taken, also does not deserve consideration.

12. For the reasons discussed above, I see no reason for causing interference in the impugned order. Hence, the following order :-

ORDER

- (i) The Original Application is dismissed.
- (ii) There shall be no order as to costs.

VICE CHAIRMAN

Place : Aurangabad

Date : 12.09.2023